

VIA ONLINE SUBMISSION

May 25, 2016

Director
Bureau of Land Management
U.S. Department of the Interior
1849 C Street NW, Room 2134LM
Washington, DC 20240
oir_submission@omb.eop.gov

Attention: RIN 1004-AE39

RE: Bureau of Land Management Notice of Proposed Rulemaking and Request for Comments Concerning Resource Management Planning

Dear Sir:

On February 25, 2016, the Bureau of Land Management (BLM) published a notice of proposed rulemaking and request for comment in the Federal Register. *2016-09439* (Feb. 25, 2016). The Bureau of Land Management is proposing a new planning rule (“Proposed Rule” or “Rule”) to amend existing regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act (FLPMA), and enable the BLM to more readily address landscape-scale resource issues. The BLM requested public comment on the Proposed Rule. The deadline for submitting comments is May 25, 2016.

The following comments on the Proposed Rule are submitted to the Bureau of Land Management on behalf of the Public Lands Council, American Sheep Industry Association, National Cattlemen’s Beef Association, Association of National Grasslands, and numerous affiliated livestock associations listed on the signature page (collectively, “Livestock Associations”). The Livestock Associations appreciate the opportunity to provide comments. Please consider these comments and include them in the administrative record for the Proposed Rule.

A. The Livestock Associations

The Livestock Associations have thousands of members who are public land ranchers. Public land ranchers own over 100 million acres of the most productive private land in the West and manage 250 million acres of public land, accounting for critical wildlife habitat and a significant portion of the nation’s natural resources. The Livestock Associations work to maintain a stable business environment in which livestock producers can conserve the resources of the West while producing food and fiber for the nation and the world.

The implications of a new planning rule are of critical importance to the Livestock Associations, as their members are involved in managing natural resources throughout the West every day.

B. Overview

First and foremost, the Livestock Associations applaud the BLM's acknowledgment that the current resource management planning process is in need of modernization and overhaul. That being said, this proposed rule fails to achieve, or even make progress toward that objective. Instead, the Proposed Rule would fundamentally reorient Federal land-use planning by deemphasizing BLM's FLPMA-mandated focus on multiple use and sustained yield in favor of enhanced prioritization and response to short-term political expediency and non-stakeholder involvement. Further, the Proposed Rule all but eliminates the requirement that Federal land-use planning be *consistent with State and local plans*, instead requiring only that state and local plans receive "*consideration*" in the process. The Proposed Rule's emphasis on "*landscape-scale*" management further erodes this local input by removing authority from BLM State Directors and Field Managers – necessarily concentrating all land-use planning in Washington, DC.

C. Stated Goals

Per BLM's Executive Summary for the Proposed Rule:

"Specifically, Planning 2.0 seeks to achieve three goals: (1) improve the BLM's ability to respond to social and environmental change in a timely manner; (2) provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans; and (3) improve the BLM's ability to address landscape-scale resource issues and to apply landscape-scale management approaches."

The Livestock Associations would like to address each of these goals individually:

1. *Improve the BLM's ability to respond to social and environmental change in a timely manner;*
 - This is a radical departure from the BLM's charge under FLPMA to manage for multiple use and sustained yield, and is even a retreat from the agencies own [Fact Sheet](#) for this rule, which includes "economic" as priority item.
 - The effects of land use planning on Western communities with large Federal footprints can have dramatic and detrimental impacts on rural economies, therefore it is critical that economic change be prioritized in any Federal land use planning process.
 - Further, the new revised priorities remove reference to assessment of impact on "local economies" and instead direct consideration of the "*impacts of resource management plans on resource, environmental, ecological, social and economic conditions at appropriate scales.*" This shift in policy effectively eliminates the need for the planning process to adequately account for and

respond to local economic impacts of planning decisions while at the same time widening the planning scope to a “landscape scale.” Not only will the net effect of this policy be disastrous to rural economies, but the effects will be nearly impossible to quantify since the burden of appropriate economic due diligence will no longer exist.

- Despite a central focus on and elevation of the need to “respond to social and environmental change,” the proposed rule fails to define “social” in over 240 pages of text, despite defining numerous other terms.

2. *Provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans; and*

- Grazing permittees and lessees have a contractual relationship with BLM to use their allotment for grazing and, in return, have an obligation to contribute to the management of the resource per the allotment management plan - at their own expense. Consequently, it is inappropriate for permittees to be grouped under the catch-all “public” category, as they are fundamentally exclusive under FLPMA and the Taylor Grazing Act and have a recognized special relationship regarding resource management. As such, permittees and lessees must be treated as stakeholders with a vested interest - not just “interested parties” or the general public.
- The term “meaningful” must also be further defined, as the currently proposed rule serves to diminish true opportunities for input in favor of simple “involvement” by the Agency, in clear violation of NEPA requirements for analysis and response of all substantive public comments.

3. *Improve the BLM’s ability to address landscape-scale resource issues and to apply landscape-scale management approaches.*

- Imposition of landscape-scale regional planning objectives on local communities - each with specific needs, obligations, and economic conditions - without properly evaluating the impacts, is irresponsible and detrimental to those communities, particularly while at the same time reducing the ability for those communities to participate and comment on the very processes that will impact them.
- The proposed rule seeks to eliminate the roles of BLM State Directors and Field Managers in the planning process by changing the relevant officials to “Deciding Official” and “Responsible Official” respectively, with the BLM Director having ultimate authority to decide both the “Deciding Official” as well as the planning area to be amended. Under this proposed rule, that planning area could well extend into multiple states and

jurisdictions, undoubtedly leading to the need for a Washington, DC-based planning team to oversee and administer all “landscape-scale” or multi-state planning decisions. This action will further erode local input and control over planning processes and reduce stakeholder and public access to the planning team, which is typically a prescription for poor land-use planning decisions.

D. Planning Elements

According to BLM the proposed rule would distinguish “*between the components of a resource management plan that provide(s) planning-level management direction (“plan components”) and “implementation strategies” that would guide future actions consistent with the management direction in the plan (“implementation strategies”).*” In order to inform these new elements, BLM is proposing a Planning Assessment, which would theoretically establish a baseline of information to inform the process.

Planning Assessment is defined as the “*evaluation of relevant resource, environmental, ecological, social, and economic conditions in the planning area, which is developed to describe the current status of lands and resources in the planning area, project demand for those resources, and to assess how these demands can be met consistent with BLM’s multiple use and sustained yield mandate.*”

- As proposed, the Planning Assessment would provide the public with “*opportunities to provide existing data or information or to suggest policies, guidance, or plans for consideration in the planning assessment.*” However, the notification requirements for this “opportunity” are woefully inadequate – consisting of posting notice on the BLM website and at BLM offices and providing “*direct notification to those who have requested such notification.*”
- This structure fails to adequately provide notice to impacted stakeholders, local and state governments, and the public and must be re-written to mandate that BLM contact all impacted stakeholders.
- As the plan element that ostensibly serves to satisfy the “Description of the Environment” requirement under NEPA, and therefore determines the environmental and economic conditions against which the plan components will be measured, it is critical that stakeholders, state and local governments, and the public be substantively involved in this step in the process, not simply “informed” if requested.
- When combined with the proposed landscape-scale planning approach, failure to adequately involved local stakeholders could result in the inclusion of inappropriate national policy determinations - yet to be specifically implemented within the planning area – in the establishment of “existing conditions.”

Plan Components are defined as “*goals, objectives, designations, resource use determinations, monitoring standards, and, where appropriate, lands identified as available for disposal from BLM administration under section 203 of FLPMA.*”

- As proposed, §1610.1-2 outlines six “plan components” which every resource management plan will include: goals, objectives, designations, resource use

determinations, monitoring and evaluation standards, and certain lands available for disposal, as applicable. Ostensibly, these elements could only be changed through plan amendments or revisions under the proposed new, yet their actual implementation through the newly created “Implementation Strategies” creates vast opportunity to take management action on BLM land in a manner that is beyond the oversight of the state and local governments, stakeholders, or the public.

- As proposed, Plan Components are the only portion of the existing resource management planning process that would survive as an opportunity for public involvement and input. Accordingly, this proposed change stands in direct opposition to the stated goal of this proposed rule to *“provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans.”*

Implementation Strategies are defined as *“potential actions the BLM may take in the future in order to achieve the goals and objectives (as defined in the Plan Components), as well as procedures for monitoring and evaluating the resource management plan implementation.”*

- The Livestock Associations are greatly concerned by the lack of oversight inherent to this proposed planning element.
- BLM has informed us that their intention is for these “implementation strategies” to serve as a pre-approved toolbox of management actions that could be deployed as needed. BLM claims this is essential for applying a landscape-scale management approach because it will allow them to avoid the need to re-start the planning process or supplement NEPA analysis based on issues raised later in the process after considerable work has been completed.
- According to the definition in the proposed rule, *“As explained in the preamble for proposed § 1610.1-3, implementation strategies would not be considered a component of the approved resource management plan; rather these optional strategies would be prepared in conjunction with the preparation of a resource management plan to assist in the future implementation of the resource management plan or be developed subsequently, but consistent, with the plan components.”*
- As written, this definition outlines a management action that would totally circumvent the public review and input requirements of Federal rulemaking and land-use planning.
- Additionally, the proposed rule would allow for these Implementation Strategies to be deployed with only 30 days notice, with no stakeholder review or input.
- The Livestock Associations are greatly concerned by the lack of public input, review, or even basic Federal Register notification before these Implementation Strategies” could be deployed.
- The lack of oversight and notification requirements in these new “implementation strategies” could fundamentally reduce or eliminate the protections and assurances provided in Federal grazing permits and leases.

- It is the opinion of the Livestock Associations that these new planning elements and the instability they create will materially impact the value of grazing permits and leases on BLM lands
- Further, the change would “eliminate some Federal Register notice requirement and shorten the minimum requirement for the length of public comment periods for draft resource management plans and draft EIS-level amendments to balance the need for an efficient planning with additional time for new public involvement opportunities and also to promote consistency and integration” with NEPA.”

E. Additional Concerns

NEPA Exclusion

- BLM has elected to categorically exclude this proposed rule from NEPA analysis in a separate document titled “Preliminary Categorical Exclusion Documentation – 2016 Proposed Rule 43 CFR Part 1600” (“CX Documentation”). BLM’s unilateral decision to categorically exclude this rule from NEPA review reinforces the notion that NEPA is wielded by the agencies only as a weapon, and disregarded when it fits their needs. The Livestock Associations view this as an acknowledgement that NEPA is a broken and irrelevant process that should therefore cease to apply to permit renewals, updated management practices, or similar “procedural” actions as the BLM has cited in this proposed rule.
- Additionally, the CX Documentation details the public outreach and engagement undertaken by BLM in the initial stages of Planning 2.0. By its own admission, BLM held just two “listening sessions” on this proposal in 2014 – in the urban centers of Denver, CO and Sacramento, CA. The CX Documentation further explains that remote participation was made available through internet livestream – an option that is not technologically available to many rural stakeholders. This lack of substantive public and stakeholder engagement is unacceptable when contemplating such a massive restructuring of the land-use planning process. Also unacceptable is BLM’s decision to hold the two “listening sessions” in urban centers, far from the actual areas (and stakeholders) that will be impacted by the proposed rule.

Overall Reduced Stakeholder Involvement

- The Proposed Rule seeks to modify how BLM interacts with relevant existing data, local planning rules, and local input in general. By substituting terms like “consideration” for the current and legally appropriate standard of “consistency,” BLM is attempting to circumvent their requirements under FLMPA.
- At multiple points in the planning process outlined in the proposed rule, such as the “Development of Planning Criteria” stage, existing requirements that BLM post a NOI in the Federal Register and seek public comment are stripped away. Instead, BLM seeks to simply “describe the rationale for the differences between alternatives” and provide those alternatives for “review.” As stakeholders in the land-use planning process, the Livestock Associations strenuously object to the

elimination of these important opportunities to engage. BLM informing stakeholders of the action they will be taking is not equivalent to, nor does it satisfy the requirement for, substantive public engagement.

- Additionally, the proposed rule seeks to reduce the minimum duration of the few remaining opportunities for substantive public comment – from the current 90 days down to 45 or 60 days depending on the stage. This reduction, particularly when combined with the reduced notification requirements, provides an unacceptably short window for stakeholder engagement and will lead to impacted individuals being cut out of the process.

Language Simplification

- The Proposed Rule seeks to simplify the language used in the rulemaking and planning process by substituting the generally accepted “shall” with “will.” Despite the fact that the proposed rule states that BLM does not intend for this change to affect the meaning or enforceability of the term, specific words have specific meanings, and “shall” has been shown repeatedly in the court system to convey an action that must be taken. We object to any modification that could diminish that obligation, particularly when the modification is not necessary, as in this case.

III. Conclusion

Because of the concerns outlined in these comments, we request that the BLM revise the Proposed Rule to be consistent with its authority and obligation under the Taylor Grazing Act, FLMPA, MUSYA, and all other applicable statutes, and to appropriately consider its multiple use objective to provide for range resources. Providing for range resources is an important objective of the BLM’s multiple use and sustained yield mandate and is necessary to sustain the yields (food and fiber) from sheep and cattle grazing on BLM lands. The secondary beneficiaries of the BLM’s compliance with its statutory mandates are the many rural economies in the West. Lastly, the BLM’s ability to provide range resources and to manage for sustainable and healthy forest lands is integral to successful operations of the Livestock Associations’ members.

Thank you for the opportunity to provide these comments on the Proposed Rule. If you have any questions concerning these comments or need further information, you may contact Ethan Lane at the Public Lands Council as our point of contact.

Sincerely,

National Cattlemen’s Beef Association
Public Lands Council